

SECOND REGULAR SESSION

# HOUSE BILL NO. 1468

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WARD.

Read 1<sup>st</sup> time January 15, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3655L.011

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### AN ACT

To repeal sections 379.362, 379.889, 379.890, and 379.893, RSMo, and to enact in lieu thereof one new section relating to commercial insurance.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 379.362, 379.889, 379.890, and 379.893, RSMo, are repealed and  
2 one new section enacted in lieu thereof, to be known as section 379.889, to read as follows:

379.889. [1. The effective date of a commercial casualty insurance filing required to be  
2 submitted to the director for review shall be the date specified therein, but not earlier than sixty  
3 days after the filing is received by the director. If the director has reviewed the filing prior to  
4 expiration of the waiting period, the director may authorize an effective date prior to expiration  
5 of the waiting period but not earlier than the date such written application is received. If the  
6 director has not approved or disapproved the commercial casualty insurance filing within the  
7 sixty-day period after the filing is received by the director, the filing shall be deemed approved  
8 until such time as the director disapproves the filing.

9 2. The director shall only approve] commercial casualty insurance filings [that are not]  
10 **shall not be** excessive, inadequate or unfairly discriminatory. No rate shall be held to be  
11 excessive unless such rate is unreasonably high for the insurance coverage provided. No rate  
12 shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage  
13 provided and is insufficient to sustain projected losses and expenses or unless such rate is  
14 unreasonably low for the insurance coverage provided and the use of such rate has, or if  
15 continued will have, the effect of destroying competition or creating a monopoly. Unfair  
16 discrimination shall be defined to include, but shall not be limited to, the use of rates which

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 unfairly discriminate between risks in the application of like charges or credits or the use of rates  
18 which unfairly discriminate between risks having essentially the same hazard.

[379.362. 1. Commercial property insurance and commercial casualty  
2 insurance policies shall be exempt from those provisions of sections 379.316 to  
3 379.361, sections 379.420 to 379.510 and section 379.888 which concern regulation  
4 by the department of policy language, policy provisions or the format of such  
5 policies, or the rates associated with such policies, for any policy for which the  
6 policyholder certifies in writing, on a certification form approved by the department,  
7 that the policyholder understands that the policy's language or the policy's rating is  
8 unregulated by the department and that the requirements of either subdivision (1) or  
9 subdivision (2) below are met:

10 (1) The policyholder has utilized the services of the independent insurance  
11 adviser. For purposes of this section, the term "independent insurance adviser"  
12 means a person who is qualified through education, training or experience to assess  
13 the purchaser's insurance needs and analyze the policy with or on behalf of the  
14 policyholder. Such an insurance adviser may be an employee of the policyholder or  
15 a person retained by the purchaser, provided that the independent insurance adviser  
16 shall not also be an employee of the insurer. Such an independent insurance adviser  
17 shall only be compensated for services related to the insurance transaction in question  
18 by the policyholder; or

19 (2) The policyholder's commercial operations meet any two of the following  
20 criteria:

- 21 (a) One hundred or more employees;
- 22 (b) A net worth of over twenty-five million dollars;
- 23 (c) Net revenues or sales of over fifty million dollars;
- 24 (d) Paid aggregate annual commercial insurance premiums of over fifty  
25 thousand dollars, excluding workers' compensation and employer's liability  
26 insurance;
- 27 (e) Is a not-for-profit or public entity with an annual budget or assets of at  
28 least twenty-five million dollars; or
- 29 (f) Is a municipality with a population of over fifty thousand inhabitants.

30 2. An insurer writing a commercial property or commercial casualty  
31 insurance policy pursuant to subsection 1 of this section shall retain a copy of the  
32 policyholder's written certification as part of the insurer's policy records of the  
33 transaction.

34 3. Nothing contained in subsection 1 of this section shall be construed as  
35 exempting commercial property or commercial casualty policies which meet the  
36 requirements of subsection 1 of this section from any regulatory authority of the  
37 director of the department of insurance other than that authority related to the  
38 oversight of the policy language, policy provisions or the format of policies, or of the  
39 rates used to calculate the amount of premium charged. In particular, nothing  
40 contained in subsection 1 of this section shall limit the director's authority over  
41 excessive, inadequate or unfairly discriminatory rates.

42           4. The director may, by rule, require insurers providing coverage pursuant to  
43 subsection 1 of this section to retain information in such insurer's files identifying the  
44 policies providing such coverage, and to report to the department aggregate data  
45 regarding the types of such coverage written and the amounts charged for such  
46 coverage.

47           5. Notwithstanding the provisions of section 384.017, RSMo, commercial  
48 property or commercial casualty insurance meeting the requirements of subsection  
49 1 of this section may be procured through a surplus lines licensee from an eligible  
50 surplus lines insurer even though the same type of coverage or quality of service is  
51 obtainable in the market from admitted insurers.]

2           [379.890. Supporting actuarial data shall accompany every commercial  
3 casualty insurance rate, rating plan, or rating system filing. The data shall be in  
4 sufficient detail to:

5               (1) Justify any rate level changes; and

6               (2) Demonstrate the statistical significance of differences or correlations  
relevant to rating plan definitions and rate differentials.]

2           [379.893. The director shall have authority to promulgate reasonable rules  
3 and regulations limiting or modifying any aspect of any commercial casualty  
4 insurance rating plan or rating system which involves a possible modification of the  
5 base rate. No rule or portion of a rule promulgated under the authority of this chapter  
6 shall become effective unless it has been promulgated pursuant to the provisions of  
section 536.024, RSMo.]